# Effective Use of Jurors

Measure 8

**Definition:** Juror Yield is the number of citizens selected for jury duty who are qualified and report to serve, expressed as a percentage of the total number of prospective jurors available. Juror Utilization is the rate at which prospective jurors are used at least once in trial or voir dire, expressed as the number of jurors selected as a percentage of the total number of prospective jurors qualified and available to serve (yield).

**Purpose:** The percentage of citizens available to serve relates to the integrity of source lists, the effectiveness of jury management practices, the willingness of citizens to serve, the efficacy of excuse and postponement policies, and the number of exemptions allowed. The objective of this measure is to minimize the number of unused prospective jurors—the number of citizens who are summoned, qualified, report for jury service, and who are not needed.

**Method:** Courts differ in their approach to drawing a pool of qualified jurors. The Juror Yield Computation Worksheet below accommodates most one-step or combined qualifying and summoning practices.

## Juror Yield Computation Worksheet

| Potential Availability | | Not Available | |
|---|---|---|---|
| A. Summonses Sent | _____ | E. No Show | + _____ |
| B. Postponed to Serve this Period | + _____ | F. Undeliverable | + _____ |
| C. Told Not to Report | – _____ | G. Disqualified | + _____ |
| | | H. Exempt | + _____ |
| | | I. Excused | + _____ |
| | | J. Postponed to Future | + _____ |
| D. Total Potentially Available | = _____ | K. Total Not Available to Serve | = _____ |

L. Total Serving = [ D - K ]

M. **Juror Yield(%)** = [ (L / D) x 100 ]

## Notes:

A. **Number of Summonses Sent**: The total number of summonses sent to prospective jurors.

B. **Postponed to Serve this Period** (Postponed In): The number of people summoned and postponed from a previous measurement time period who are required to serve during this time period.

C. **Told Not to Report**: The number of people the court assumes were available and willing to serve but who were instructed in advance by the court not to report.

D. **Total Potentially Available**: Total number of people expected to report for jury duty, calculated as the Number of Summonses Sent plus the number Postponed to Serve this Period minus the number Told Not to Report [(A+B) – C].

E. **No Show**: The number of people not reporting for jury duty as instructed. Include jurors who report for duty, but leave without explanation before service is complete.

F. **Undeliverable**: The number of summonses sent out that were returned by the post office as undeliverable.

G. **Disqualified**: The number of people not allowed to serve by statute (e.g., those who are no longer residents of the jurisdiction).

H. **Exempt**: The number of people allowed by statute to be excused at their own request who have made and been granted such a request.

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I. **Excused**: The number of people excused at the court's discretion (e.g., financial hardship). Excuse guidelines are set by statute or court rules.

J. **Postponed to Future Time Period** (Postponed Out): The number of people postponed at the court's discretion during this measurement period to serve at a future date.

K. **Not Available to Serve**: Total number of people not available to serve due to items E through J. [E+F+G+H+I+J].

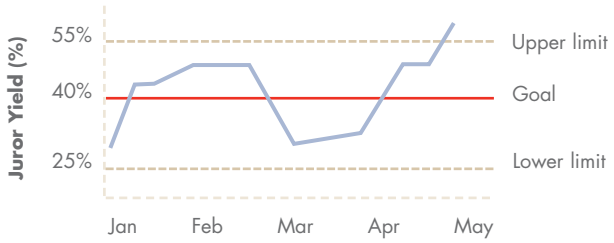
L. **Total Serving**: The total number of people serving. [D-K].

M. **Juror Yield**: The percentage of citizens selected for jury duty who are qualified and report to serve, expressed as a percentage of the total number of prospective jurors available. [(L/D) x 100].

The Juror Yield Worksheet provides an overall measure of juror yield. A commonly used goal for yield is 40 percent, a value demonstrated to be realistic in many well-managed courts. The worksheet also provides courts with more detailed and diagnostic feedback on specific areas in which the court might improve. For instance, courts with high percentages of undeliverable summonses (F on the worksheet) might seek to improve the accuracy of source lists. Courts with a high number of excused (I on the worksheet) might choose to evaluate their policy for granting requests to be excused or implement procedures that reduce the burden of jury service (e.g., using shorter terms of service or providing childcare). If the court has a large number of potential jurors failing to appear (E on the worksheet), it may choose to implement stricter enforcement or develop public outreach and jury service education programs.

## Analysis and Interpretation

### Juror Yield Over Time




Courts may track juror yield over time and evaluate unusual variations. Although variations are expected, points falling well above or well below the average can alert the court to the need for possible adjustments. For example, any time the yield rises above an upper limit (e.g., 55%) or below a lower limit (e.g., 25%) the court can adjust the number of persons summoned and thus call to service the appropriate number of potential jurors needed by the court. By examining this measure over time, courts are better able to respond to their jury workload.

### Postponement Ratio

**Ratio of postponed out to postponed in**

| Month | Jurors Postponed Out | Jurors Postponed In | Ratio |
|---|---|---|---|
| March | 260 | 250 | 1 to 1 |
| April | 255 | 253 | 1 to 1 |
| May | 250 | 245 | 1 to 1 |
| June | 290 | 220 | 1.3 to 1 |
| July | 300 | 210 | 1.4 to 1 |

From the Juror Yield Computation Worksheet, the court can calculate the ratio of potential jurors postponed out to the number postponed in to evaluate postponement practices. The ratio is calculated by dividing the number of *Postponed to Future Time Period* (J) by the number *Postponed to Serve this Period* (B). Ideally, this ratio should be in balance at 1:1 and stable over time so that the court is not short of potential jurors in some periods while having a surplus in others. As shown above, the court's postponement ratio has become problematic in the summer months, as more potential jurors are allowed to postpone their service, while at the same time the court did not anticipate this with a sufficient number of potential jurors postponed in. Understanding these patterns will enable to court to keep the ratio in balance in the future.

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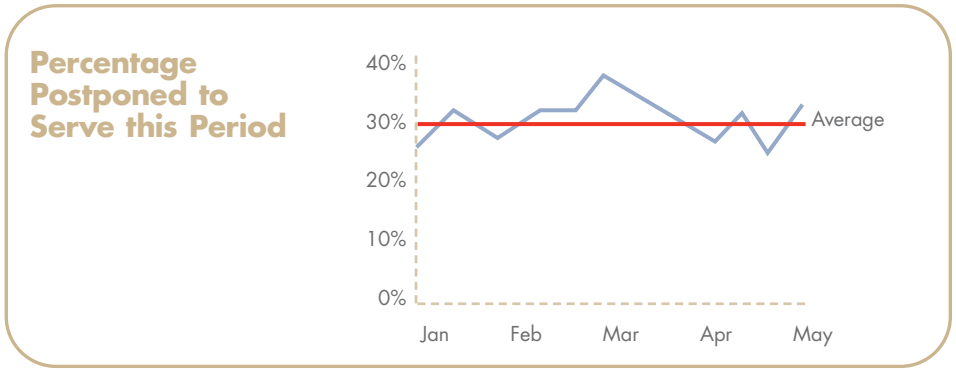
As a complement to the previous calculation, the court can also calculate the proportion of potential jurors *Postponed to Serve This Period* as a share of *Summonses Sent* [**(B/A) x 100**]. This allows the court to monitor deferral rates and prevent high deferral rates, since this may skew the jury pool (e.g., all "snowbirds" showing up for jury service during summer months). Based on this analysis, the court might need to restrict the dates that people can be allowed to postpone into, thereby avoiding too many postponements in the same jury pool.




## Juror Utilization

The second element of this measure, Juror Utilization, helps the court minimize the number of unused jurors—that is, the number of citizens who are summoned, qualified, told to report for service, and are not needed. This element addresses the problem of non-use of panels due to settlements and pleas and the problem of calling panels that are larger than needed for the selection of a jury.

Courts should calculate juror utilization at various stages along the jury selection process (e.g., percent sent to the courtroom, or percent impaneled as a juror or alternate). Further follow-up will uncover the source of the underutilization and courts can then implement an appropriate solution.

Once the prospective juror appears for jury duty, and postponements and hardships are handled, the person will fall into one of five categories as defined below. Note that courts need to distinguish between completed jury selection (defined as once the jury is sworn) and incomplete jury selection (defined as any time a case is disposed during the jury selection process (e.g., by settlement or plea) prior to the jury being sworn), in order to obtain an accurate picture of their jury management practices.

The categories are:

N. **Selected in Completed Jury Selection**: The number of jurors selected and impaneled to serve on the jury or as an alternate, when a jury is sworn.
O. **Challenged in Completed Jury Selection**: The number of jurors excused (by peremptory challenge, challenge for cause, or by the judge's own initiative) from the panel, when a jury is sworn.
P. **Not Selected or Challenged in Completed Jury Selection**: The number of jurors assigned to a courtroom and attending jury selection, but not questioned or needed, when a jury is sworn.

Q. **Utilized in Incomplete Jury Selection**: The number of jurors assigned to a courtroom and attending jury selection, when a jury is not sworn.
R. **Never Assigned**: The number of jurors who did not attend jury selection and remained in the assembly room until dismissed.

Juror Utilization is defined in two parts. First is the Percent Selected as Jurors, which assumes the court does not use a multiple voir dire. Applying the calculations obtained from juror yield, this percentage is calculated as **[(N/L) x 100]**. A suggested goal for this part is 30 percent. The second part, Percent Sent for Jury Selection, is defined as the percentage of potential jurors who attended jury selection, calculated as **[((N+O+P+Q)/L) x 100]**. The suggested goal for this part is 90 percent.

Additional diagnostic calculations may uncover other areas deserving court attention. For example, the Percent Utilized in Jury Selection may be high due to panel sizes being too large. To determine this, the calculation of Percent Sent to Courtroom and Utilized is used: [**((N+O)/(N+O+P)) x 100**]. The suggested goal for this component is 90 percent. When analyzing panel sizes in this way, the court will appear to be inefficient in its use of jurors if the court is unable to distinguish between jurors not selected or challenged in cases with completed jury selections (P in the list above) and those utilized in incomplete jury selections (Q in the list above).

Calculations for *Juror Yield* and *Juror Utilization* should act as a starting point for a discussion on how to improve the court's ability to effectively manage jury service. The interplay between *Juror Yield* and *Juror Utilization* demonstrates the need for using both elements of this measure, and examining them in the context of other measures. Unexpectedly high yields affect the ability of the court to utilize all of the citizens who reported for duty. On the other hand, a shortage of prospective jurors due to low juror yields may result in high utilization, but may also delay trials and adversely affect trial date certainty.

## Terms You Need to Know

**Challenge for Cause:** A challenge to the seating of a juror based on the potential juror admitting bias, acquaintanceship with one of the parties or their attorney, personal knowledge about the facts, or some other basis for believing he/she might not be impartial.

**Jury Trial:** A category of case dispositions in which a jury is impaneled to determine the issues of fact in a case. A jury trial should be counted as beginning when the jury has been sworn, regardless of whether a verdict is reached.

**Panel:** A group of prospective jurors sent to the courtroom for voir dire.

**Peremptory Challenge:** A challenge to the seating of a juror for which no reason is required. The number of such challenges for each side is set by statute and may vary by case type.

**Summons:** A first-time summons sent to a prospective juror during the measurement period. This is not a count of people, but a count of all the mail sent, and should not include reminders or re-summonses (a second summons sent to a prospective juror who was postponed from a previous period).

**Undeliverable:** A summons that cannot be delivered. A summons that is reprocessed after obtaining change-of-address information should not be counted as undeliverable.

**Voir Dire:** A process of questioning prospective jurors by attorneys for each side and/or the trial judge about their background, life experiences, and opinions to determine whether they can weigh the evidence fairly and impartially.



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